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**DIRECTOR'S OFFICE MEMORANDUM 2011 - 15**

**EFFECTIVE: Immediately**

**DATE:** February 14, 2011

**TO:** Executive Policy Team  
Administrative Management Team  
Wardens

**FROM:** Richard M. McKeon, Director

**SUBJECT:** Drug Law Changes

Public Act 670 of 2002 amended MCL 791.234 and made offenders who were convicted prior to March 1, 2003 of violating MCL 333.7401(2)(a)(ii) to (iv) or 333.7403(2)(a)(ii) to (iv) of the Controlled Substances Act, including conspiracy to commit any of these offenses, eligible for early parole consideration as set forth in that Act. These requirements have been incorporated into Paragraph F of PD 06.05.104 "Parole Process". Offenders who committed a violation of one of these drug offenses on or after March 1, 2003, were sentenced under new sentencing statutes that became effective March 1, 2003.

Unaffected by either Public Act 670 or the new sentencing provisions, however, were offenders who committed a violation of one of these drug offenses before March 1, 2003 but who were convicted on or after March 1, 2003. Public Act 353 of 2010 was recently enacted to address this last group of offenders so that their parole eligibility was consistent with other offenders who committed these offenses prior to March 1, 2003. Public Act 353 also addresses those offenders who committed a violation of MCL 333.7401(2)(a)(i) prior to March 1, 2003. In addition, Public Act 353 extends these parole eligibility criteria to offenders convicted of an attempt to commit any of the identified offenses.

Paragraph F of PD 06.05.104 currently addresses the parole eligibility criteria set forth in Public Act 670. To implement the requirements of Public Act 353, Paragraph F is revised to read as follows:

Pursuant to MCL 791.234, as amended by Public Act 353 of 2010, prisoners who are serving a sentence for a violation of any of the following sections of the Controlled Substances Act, including conspiracy or attempt to commit the offense, are eligible for parole on that sentence as follows, provided the offense was committed prior to March 1, 2003 and the offender was either convicted prior to March 1, 2003 or sentenced according to sentencing provisions as they existed before March 1, 2003:

1. If serving a sentence for a violation of MCL 333.7401(2)(a)(i) or

333.7403(2)(a)(i), the offender is eligible after serving the calendar minimum less any applicable credits for that violation or after serving 17 1/2 years or, if the prisoner has a conviction for another serious offense, 20 years of the sentence ordered by the court, whichever is less. "Serious offense" is defined in Attachment A of PD 06.05.104.

2. If serving a sentence for a violation of MCL 333.7401(2)(a)(ii) or 333.7403(2)(a)(ii), the offender is eligible after serving the calendar minimum less any applicable credits for that violation or after serving 10 years of the sentence ordered by the court, whichever is less.

3. If serving a sentence for a violation of MCL 333.7401(2)(a)(iii) or 333.7403(2)(a)(iii), the offender is eligible after serving the calendar minimum less any applicable credits for that violation or after serving five years of the sentence ordered by the court, whichever is less.

4. If convicted for a violation of MCL 333.7401(2)(a)(vi) or 333.7403(2)(a)(iv) and sentenced to consecutive terms of imprisonment for two or more violations of MCL 333.7401(2)(a) or 333.7403(2)(a), the offender is eligible after serving the calendar minimum less any applicable credits for that violation or after serving one-half of the sentence ordered by the court for each violation of MCL 333.7401(2)(a)(vi) or 333.7403(2)(a)(iv). This does not apply, however if the offense was committed while the prisoner was on probation or on parole. Pre-sentence reports shall be reviewed as needed to determine whether the offense was committed while on probation or parole.

In addition to the above, PA 353 extends certain parole eligibility requirements to prisoners who are serving a sentence for attempting to violate MCL 333.7401(2)(a)(i) of the Controlled Substances Act.. PD 06.05.104 is therefore revised as follows:

1. Paragraph G of PD 06.05.104 sets forth parole eligibility criteria for prisoners who are serving a life sentence for violating or conspiring to violate MCL 333.7401(2)(a)(i) of the Controlled Substances Act. The requirements of this Paragraph are extended to prisoners serving a life sentence for attempting to commit this violation.

2. Paragraph V of PD 06.05.104 identifies factors to be considered when determining whether to parole a prisoner for violating or conspiring to violate MCL 333.7401(2)(a)(i) of the Controlled Substances Act. The requirements of this Paragraph are extended to prisoners who attempted to commit this violation. In addition, the factors set forth in Paragraph V are required to be considered only when determining whether to parole a prisoner sentenced to life imprisonment before October 1, 1998; this does not prohibit the Parole Board from considering these factors when determining whether to parole other prisoners.

The Administrator of the Office of Research and Planning shall ensure that a list of all current prisoners affected by Public Act 353 is provided to the Records Administrator, Central Records Section in the Operations Division of Correctional Facilities Administrations. The list shall include each prisoner's estimated parole eligibility date based on the requirements set forth in Public Act 353. The Records Administrator shall ensure that the records of all prisoners identified on the list are

reviewed and that each prisoner's parole eligibility date is verified prior to the estimated parole eligibility date or, if that date has already passed, as soon as possible. The Records Administrator also shall ensure that a Time Review & Disposition Form (CSX-482) or other appropriate documentation is issued identifying the prisoner's new parole eligibility date. If the parole eligibility date is earlier than the previously established earliest release date and the prisoner has not already been granted a parole, the Records Administrator shall ensure that appropriate housing unit staff is notified that the prisoner may need to be rescreened for security classification in accordance with PD 05.01.130 "Prisoner Security Classification".

Questions regarding a prisoner's eligibility dates for parole under PA 353 shall be referred to the Records Administrator for response.

RMcK:OLA